



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,497	08/03/2001	Gregory M. Quist	01/171	7326

7590 08/20/2003

Leon D Rosen  
Freilich Hornbaker & Rosen  
Suite 1220  
10960 Wilshire Boulevard  
Los Angeles, CA 90024

EXAMINER

NGUYEN, TU T

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/922,497

Applicant(s)

QUIST ET AL.

Examiner

Tu T. Nguyen

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-19, 21-31 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 5, 20 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Detailed Office Action

*Claim Objections*

Claim 1 is objected to because of the following informalities:

Claim 1, line 12; Claim 2, line 1; Claim 13, line 12, the words "capable of" should be deleted.

*Claim Rejections - 35 U.S.C. § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6-14,16-19,21-31,33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein (6,315,955).

With respect to claims 1,13,16,28, Klein discloses a method for identifying particles in fluid. The method comprises: providing at least one detector means and a radiation source (abstract), detecting the scattering light (column 2, lines 40-50), identifying the particle by comparing the detected light with a known data (abstract).

Klein does not explicitly disclose the radiation scattering pattern as claimed. However, it would have been obvious that Klein's known data could be any types such as a scattering

pattern.

With respect to claims 2-4,14,17-19,29-31, Klein does not explicitly disclose the format of the known data or how to generate the known data. However, it would have been obvious to modify Klein's known data with different formats or using different algorithm to generate the known data for enhancing the testing.

With respect to claims 6-7,21-22,33-34, Klein discloses a laser (column 27, line 34).

With respect to claims 8-9,23-24,35, Klein discloses a plurality of separate detectors (abstract) and a computer for processing the data (fig 4).

With respect to claim 10-11,25-26, Klein discloses detecting microorganism in a liquid water (abstract).

With respect to claims 12,27, Klein does not discloses the claimed microorganism. However, it would have been obvious a design choice to modify Klein's method to detect different kinds of particles.

#### ***Allowable Subject Matter***

Claim 15 is allowed.

Prior arts of record does not disclose the mathematical technique as claimed in claim

15.

Claims 5, 20,32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Refer to discussion in claim 15 for the reason for allowance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T Nguyen whose telephone number is (703) 306-9185. The examiner can normally be reached on M-T 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



**Tu T. Nguyen**  
**Primary Examiner**  
**Group Art Unit 2877**

8/8/03